

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Review of Part 87 of the Commission's Rules	)	WT Docket No. 01-289
Concerning the Aviation Radio Service	)	

**Reply Comments on Further Notice of  
Proposed Rulemaking**

Aeronautical Radio Inc., ("ARINC"), by its attorneys, hereby replies to the comments submitted July 12, 2004, on the Commission's Further Notice of Proposed Rulemaking (FNPRM) in this proceeding.

In addition to the comments submitted by ARINC, The Boeing Company (Boeing) and Garmin AT, Inc. (Garmin) submitted comments on aspects of the Commission's FNPRM. Garmin's comments address rules for implementation of the Universal Access Transceiver (UAT) technology at 978 MHz, and Boeing addresses provisions for future satellite systems.

ARINC supports the comments of Garmin as reasonable and necessary for implementation of UAT to provide Automatic Dependent Surveillance-Broadcast (ADS-B) and Flight Information Services-Broadcast (FIS-B) services. The Commission should adopt the regulations as proposed.

Boeing is correct that Part 87 of the FCC's rules should be modified to encompass the new frequency bands that may be used for AMS(R)S service in the reasonably near term. As ARINC noted in its initial comments, it is critical that use of satellites in international air commerce be licensed to the aircraft station under Part 87 so that the airborne earth terminals may be freely transported and used in all countries that are members of the International Civil Aviation Organization (ICAO). Article 30 to the Chicago Convention is designed to facilitate

international air navigation. The alternative—blanket licensing of mobile earth terminals by the satellite service provider operating under the GMPCS regime—is designed to ensure local control over use of mobiles in each country visited.<sup>1</sup> This alternative is unsatisfactory and potentially in violation of Article 29 of the Chicago Convention that requires an aircraft to carry a radio license for all transmitters used on the aircraft.

ARINC, however, disagrees with Boeing's view that the Commission's rules should be completely open-ended on technical specifications. Aeronautical communications are subject to international standardization and there is ample time for stations operating in the international air traffic management system to be subjected to standardization by the ICAO, RTCA, Inc., and the Airlines Electronic Engineering Committee (AEEC). This time allows ample opportunity to for the FCC's Rules to keep up with changes in the international system.

ARINC also disagrees with Boeing's contention that new AMS(R)S bands need not be subject to priority and preemptive access for the safety communications services. This requirement was added to the L-band mobile satellite allocations in US 308 to the United States Table of Frequency Allocations and RR 5.357A and 5.362A to the Table of Frequency Allocations of the International Telecommunication Union (ITU) at the insistence of the Federal Aviation Administration and the civil aviation authorities of other countries. In order for an AMS(R)S system to achieve acceptance by the world's civil aviation authorities, legal regulatory protection for the safety communications carried by that system are essential. The events of September 11, 2001, demonstrate that, during a crisis, public communication systems can be overwhelmed. During that crisis, aeronautical communications, both domestically and

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<sup>1</sup> See GMPCS, 18 FCC Rcd 24423 (2003).

internationally, continued to function and to function quite well. This success is partly due to the management of this resource by ARINC on the private sector side and the FAA on the public sector side. Priority of communications was maintained through this ordeal. Legal authority is necessary to assure the aviation administration that priorities will be maintained by any new AMS(R)S network. There must to be a legal basis for preempting public correspondence and seizing communications for critical safety and operational communications.

Boeing claims that this can be handled by contract between the satellite vendor and the civil aviation authority, but such a regime of bilateral contracts would lead to different requirements in different parts of the world. As a consequence, the civil aviation authority with regulatory responsibility for an airline might not accept the facilities provided by contract to another civil aviation authority in a different jurisdiction, thereby complicating air commerce. Indeed, the same physical satellite transponder may be subject to differing preemptive requirements depending upon the airspace in which an aircraft is flying.

Neither Boeing nor Garmin addressed the other issues raised by ARINC in its comments—the need for 8.33 kHz channel spacing in the aeronautical enroute service, the removal of 136.5 MHz from the frequencies designated for FISB, and the need to retain the listing of individual HF allotments in Section 87.263(d) of the Rules. The Commission should take action on these matters requested by ARINC.

With the exceptions noted in its Comments and in this Reply, ARINC supports the rule changes proposed by the FCC and urges it to take prompt action to make these needed changes to Part 87 of the Rules.

Respectfully submitted,

Aeronautical Radio, Inc.

By /s/ (electronically filed)

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